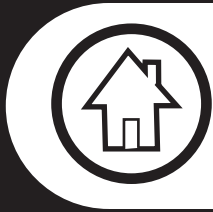


CONSUMER TIPS



This publication is intended to provide general information only and is not a substitute for legal advice.

Mortgage Fraud

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TYPES OF MORTGAGE FRAUD

Mortgage Fraud can take many forms. Four major types are explained in this publication: mortgage fraud for housing, mortgage fraud for profit, mortgage fraud for title and mortgage foreclosure fraud. Understanding mortgage fraud will help you recognize and avoid it.

- 1. Mortgage Fraud for Housing** – is providing misleading or false information on a loan application to qualify for a mortgage loan you would not otherwise get and/ or representing on the loan application you are going to live in the home, when in fact, you have no intention to live in the home. The goal is to own a property or a more expensive property for which you would normally not qualify. This is accomplished by homeowners misrepresenting income and the level of their debt in order to receive a lower interest rate or qualify for a larger loan. You have a responsibility to provide accurate and truthful information on a mortgage application. Providing false or inaccurate documents to support the mortgage application is also part of the fraud.
- 2. Mortgage Fraud for Profit** – usually includes a number of individuals working together to inflate the price of a home or get loans for non-existent homes. Organized crime is often the mastermind of the fraud schemes. This is normally done in conjunction with industry insiders with financial gain as the motive. This fraud is more complex.

The professionals involved in this fraud could be: a real estate appraiser, mortgage broker, real estate broker, lawyer, credit agency employee, lender, title insurer, outside investor. It may also include a vendor(seller) and/or a 'straw buyer'. The real buyer usually has poor credit and is unable to get financing. A straw buyer is a person who makes a purchase on behalf of another person. The straw buyer may, for a piece of the profit, lend his or her identity and good credit to the fraud. If you lend your identity or use your credit rating in this way, you are the straw buyer. The real buyer promises to make all the payments and pay the straw buyer for the use of his or her credit rating.

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These insiders may, for example, knowingly or unknowingly accept the use of false personal or financial information, use inaccurate appraisals, or transfer mortgage funds to an individual knowing they will be misused.

Straw buyers can be held legally responsible for the debt they incurred on behalf of others. The straw buyer takes the risk if the real buyer cannot or does not pay. One common outcome of the scam is that the professionals pocket the cash and the straw buyer is left with the property and no means of paying for an inflated mortgage on the property. A person who has had their identity stolen may unwillingly become a straw buyer.

Other mortgage fraud schemes for profit can be perpetrated by individuals who take money from investors and promise it will be invested in high yield mortgages. In some cases initial promises aren't followed through and the actual transaction as outlined may not even occur. If the transaction involves a scheme or arrangement whereby the purchaser may earn a return through the efforts of a third party in connection with real estate, it may be considered to be a sale of a security and therefore fall under the jurisdiction of the Alberta Securities Commission (ASC). It should be remembered that any investment involves some level of risk. Usually, higher returns mean a higher level of risk.

- 3. Mortgage Fraud for Title** – occurs when someone uses your stolen identity (see “Identity Theft” publication), fake documents and identification to change the title on your home. Using these documents they apply for and take out a mortgage on your home. The bank lends the money to the criminals based on the stolen or fake documents and leaves the victim with the debt. Even if they didn't change the title of the home they could leave you with a mortgage debt that you didn't agree to.

One of the scariest possibilities for a homeowner is that fraudsters could take title to your home without your knowledge.

It could be your responsibility to prove that you did not authorize the title change and mortgage. Although you may be able to sort it out, it takes time and effort to unravel identity theft. It is important to take precautions to prevent this type of fraud. Check the title on your home and regularly check your credit rating to ensure that everything is in order.

- 4. Mortgage Foreclosure Fraud** - Foreclosure scams generally target vulnerable, low-income individuals whose homes are in foreclosure, or who are at risk of defaulting on their loans. While there are many variations within foreclosure scams there are several common elements. A criminal approaches a legitimate owner with a debt-consolidation scheme that typically involves the owner paying upfront fees and transferring the property title (sometimes unwittingly) to the fraudster. The legitimate owner typically receives a cash payout from the fraudster to address immediate bills and remains in the home paying “rent” or “consolidated debt payments” to the fraudster. However, in contrast to legitimate debt consolidation programs, the fraudster pockets all payments from the owner and ignores bills and taxes which leads to debt-collection procedures against the owner. The fraudster may re-mortgage or sell the property to an accomplice leaving the owner without the property title, homeless and in debt.

WHAT YOU CAN DO TO PROTECT YOURSELF

To protect yourself from being an unwilling participant in mortgage fraud, do your homework.

- Read all documents before you sign or have your lawyer review the documents.

- If you are going to purchase real estate and finance the purchase through a mortgage, make sure you are using a licensed mortgage broker who is registered under the *Real Estate Act* in Alberta. Licensed mortgage brokers are required to practice in accordance with the Act, Regulations, Rules and Bylaws enforced by the Real Estate Council of Alberta (RECA).

RECA also administers an assurance fund set up to provide some financial protection for clients of licensed mortgage and real estate brokers. If you suffer financial losses because of fraud or a breach of trust as a result of the activities of a mortgage or real estate broker authorized by RECA, the assurance fund may compensate you for your financial loss. Clients of unlicensed fraudsters are not eligible for this protection.

To learn if the person you are dealing with is an authorized individual, check with RECA before you make a deal. Call toll-free 1-888-425-2754 or check online at www.reca.ab.ca

WHAT SHOULD I DO IF I SUSPECT A SUSPICIOUS TRANSACTION?

Consumers should be aware of red flags which may be indicators of a fraudulent transaction. The existence of red flags does not guarantee a fraud, however it should be cause for suspicion. If there are more than two or three red flags in a transaction they should be considered seriously.

Information on the RECA website has a list of the red flags and four separate information bulletins. Check these out - the time spent reading them is well worth it.

If you have found information to be false or misleading, contact the lender and advise them of your findings. If the persons involved are industry members (real estate associates/brokers, mortgage

associates/brokers or real estate appraisers), report the results of your review to RECA in writing.

If you suspect fraudulent and/or other illegal behaviour, contact the local police or Royal Canadian Mounted Police in addition to RECA.

HAVE YOU EXPERIENCED OTHER RED FLAGS?

Please forward them to RECA so they can share them with other industry professionals.

INVESTING YOUR TIME AND DOLLARS WISELY

Protect your real estate investment dollars by first doing a little homework.

- Consult public real estate websites to review property listings in the community where the property is located. Compare features, size and locations to establish if the asking price seems reasonable.
- Get independent representation for your purchase. If the seller objects, consider it a red flag.
- Check to make sure your representative is an authorized real estate professional. Contact the Real Estate Council of Alberta.
- Using an authorized real estate professional does not cost anything from a purchaser's standpoint. Usually, all commissions are paid by the seller.
- Beware of a real estate broker or mortgage broker who has a financial interest in the transaction.
- Ask your independent representative to provide you with a comparative market analysis of the property.
- Ask for a copy of the land title or go to a registry agent office and ask for a historical title search.
- In the offer to purchase, include the option to have the property appraised by a designated or accredited member of the Appraisal Institute of Canada or the Canadian National Association of Real Estate Appraisers.

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- Insist on a home inspection to guard against buying a house that has been cosmetically renovated or formerly used as a marijuana growing operation. Grow operators frequently use mortgage fraud to purchase their properties.
- Ask to see receipts for recent renovations.
- When you make a deposit, ensure your money is being held in trust.
- Use the following resources:
 - To find a registry agent near you, for a historical title search, check the Service Alberta website www.servicealberta.ca>Registries>Registry Agents.
 - To find out if a mortgage broker or real estate professional is licensed in Alberta, contact the Real Estate Council of Alberta www.reca.ab.ca.

PAY ATTENTION TO THE MORTGAGE FRAUD RED FLAGS

Someone offers you a fee to use your name and credit information to obtain a mortgage.

- You are encouraged to include false information on a loan application.
- You are asked to leave signature lines or other important areas on a loan application blank.
- The loan amount on the mortgage is significantly higher than the value of the property.
- The mortgage has been refinanced several times and in each instance, the amount of the mortgage has increased.
- The seller or investment adviser discourages you from seeing or inspecting the property you are offering to purchase

Mortgage fraud is not a get rich quick scheme — it's illegal. Getting involved in a mortgage scam can damage your credit rating, your current and future employment prospects and your professional designation.

Did you know?

- Law enforcement officials and lenders believe that 10-15 per cent of all mortgage applications contain false information.
- Lenders can and do sue individuals who participate in mortgage fraud.

FOR MORE INFORMATION

Consumer Contact Centre

Edmonton: 780-427-4088

Toll-free in Alberta: 1-877-427-4088

Queen's Printer Bookstore

You may purchase Acts and regulations from the Queen's Printer Bookstore:

10611 - 98 Avenue, Edmonton, Alberta T5K 2P7

Edmonton: 780-427-4952

Toll-free in Alberta: Dial 310-0000 then 780-427-4952

These are also free for you to download in the "pdf" or "html" formats at www.qp.alberta.ca

Alberta Securities Commission (ASC)

If you think you have been involved in or become aware of a mortgage fraud that involves securities, please contact:

ASC Public Inquiries

Toll-free: 1-877-355-4488

www.albertasecurities.com

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